United Nations S/2010/206

Security Council

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27 April 2010

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Russian Federation: draft resolution

The Security Council,

Recalling its previous resolutions concerning the situation in Somalia, especially resolutions 1814 (2008), 1816 (2008), 1838 (2008), 1844 (2008), 1846 (2008), 1851 (2008) and 1897 (2009),

Continuing to be gravely concerned by the threat that piracy and armed robbery at sea against vessels pose to the situation in Somalia and other States in the region, as well as to international navigation and the safety of commercial maritime routes,

Reaffirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Convention"), in particular its articles 100, 101 and 105, sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities,

Reaffirming also that the authorizations renewed in resolution 1897 (2009) apply only with respect to the situation in Somalia and shall not affect the rights, obligations or responsibilities of Member States under international law, including any rights or obligations under the Convention, with respect to any other situation, and *underscoring in particular* that resolution 1897 shall not be considered as establishing customary international law,

Stressing the need to address the problems caused by the limited capacity of the judicial system of Somalia and other States in the region to effectively prosecute suspected pirates,

Noting with appreciation the assistance being provided by the United Nations Office on Drugs and Crime (UNODC) and other international organizations and donors, in coordination with the Contact Group on Piracy off the Coast of Somalia ("CGPCS"), to enhance the capacity of the judicial and the corrections systems in Somalia, Kenya, Seychelles and other States in the region to prosecute suspected, and imprison convicted, pirates consistent with applicable international human rights law,

Commending the role of the EU operation Atalanta, North Atlantic Treaty Organization operations Allied Protector and Ocean Shield, Combined Maritime Forces' Combined Task Force 151, and other States acting in a national capacity in cooperation with the Transitional Federal Government (the TFG) and each other, in

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suppressing piracy and armed robbery at sea off the coast of Somalia, including by bringing persons suspected of piracy to justice,

Commending the efforts of the Republic of Kenya to date to prosecute suspected pirates in its national courts and imprison convicted persons, and *encouraging* Kenya to continue these efforts, while acknowledging the difficulties Kenya encounters in this regard,

Also commending the efforts to date of other States to prosecute suspected pirates in their national courts,

Acknowledging the decision of the Seychelles to engage in the prosecution of suspected pirates, and *welcoming in particular* their decision on 6 February 2010 to consider hosting a regional prosecution centre,

Commending the decision by the CGPCS to create the International Trust Fund supporting initiatives of the Contact Group on Piracy off the Coast of Somalia administered by the UNODC to defray the expenses associated with prosecution of suspected pirates and to support other counter-piracy initiatives, *welcoming* the contributions of participating States and *encouraging* other potential donors to contribute to the fund,

Welcoming the adoption of the CGPCS regional capability needs assessment report and *urging* States and international organizations to provide fullest possible support to enable early implementation of its recommendations,

Commending those States that have amended their domestic law in order to criminalize piracy and facilitate the prosecution of suspected pirates in their national courts, consistent with applicable international law, including human rights law, and *stressing* the need for States to continue their efforts in this regard,

Noting with concern at the same time that the domestic law of a number of States lacks provisions criminalizing piracy and/or procedural provisions for effective criminal prosecution of suspected pirates,

Acknowledging the ongoing efforts within the CGPCS to explore possible mechanisms to more effectively prosecute persons suspected of piracy and armed robbery at sea off the coast of Somalia,

Emphasizing that peace and stability within Somalia, the strengthening of State institutions, economic and social development and respect for human rights and the rule of law are necessary to create the conditions for a durable eradication of piracy and armed robbery at sea off the coast of Somalia, and further emphasizing that Somalia's long-term security rests with the effective development by the TFG of the National Security Force and Somali Police Force, in the framework of the Djibouti Agreement and in line with a national security strategy,

Being concerned over cases when persons suspected of piracy are released without facing justice and *determined* to create conditions to ensure that pirates are held accountable,

1. *Affirms* that the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia undermines anti-piracy efforts of the international community;

2. *Calls on* all States, including States in the region, to criminalize piracy under their domestic law and favourably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, consistent with applicable international human rights law;

3. *Welcomes* in this context the progress being made to implement the IMO Djibouti Code of Conduct, and *calls upon* its participants to implement it fully as soon as possible;

4. *Requests* the Secretary-General to present to the Security Council within 3 months a report on possible options to further the aim of prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia, including, in particular, options for creating special domestic chambers possibly with international components, a regional tribunal or an international tribunal and corresponding imprisonment arrangements, taking into account the work of the CGPCS, the existing practice in establishing international and mixed tribunals, and the time and the resources necessary to achieve and sustain substantive results;

5. *Decides* to remain seized of the matter.

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Letter dated 22 April 2010 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1896 (2009) of 30 November 2009 concerning the Democratic Republic of the Congo. The Council requested me to extend, for a period expiring on 30 November 2010, the Group of Experts established pursuant to resolution 1533 (2004).

Accordingly, I wish to inform you that, after consulting with the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, I have appointed the following experts:

Mr. Pawel Tarnawski, Poland (logistics)
Mr. Fred Robarts, United Kingdom (regional issues)

I should be grateful if you would bring this matter to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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